

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2039.03
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	May 14, 2003
DATE OF REPORT:	June 9, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 10, 2003

COMPLAINT ISSUES:

Whether the Elkhart Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, by failing to

- a. conduct daily observations of the student;
- b. work on communication skills, utilizing picture symbols; and
- c. provide instruction to the student in journalism class.

511 IAC 7-27-7(b)(1) by failing to ensure the student's teacher of record (TOR) monitors the student's IEP specifically, by failing to provide progress reports based on daily observations of the student.

FINDINGS OF FACT:

1. The Student is 19 years old, attends the local high school (the School), and qualifies for special education and related services under the categories of moderate mental disability, communication disorder, and multiple disabilities.
2. The Student's current IEP states that the charting of objectives was to take place one to two times per week. On April 30, 2003, the Complainant requested that the TOR provide a daily log of the Student's activities, but the request was not made in a CCC meeting and was not included in the Student's IEP.
3. The Student's current IEP states that the Student will be provided with a picture communication system (picture book). The use of the picture book was to be demonstrated for the Complainant by documentation in the form of a simple chart, as required in the current IEP, that traveled with the Student to each setting, and would be charted by the supervising adult in each setting. The SLP was to consult with the TOR weekly to discuss progress and "make necessary adjustments to the method of charting, or the pictures themselves," according to the Student's IEP. The communication objectives in the current IEP were to be reviewed one to two times weekly and reported every six weeks. The TOR provided three styles of charts between February 17, 2003, and May 6, 2003, but did not consistently chart objectives for communication skills one to two times per week. The TOR is currently teaching under a limited license and was to be provided supervision, but no documentation was provided by the School to show that the TOR received the weekly consultations by the SLP, as required in the current IEP, to review the Student's progress charts and make necessary revisions.

4. The Student's current IEP states that the Student will attend the journalism class every day. The Student was not included in the journalism class from March 20, 2003, to April 28, 2003, following an absence due to surgery. Nothing in the Student's file indicates the Student could not attend the journalism class, and the School acknowledges that they failed to include the Student in journalism class due to a confusion between School staff.
5. The Student's IEP requires progress reports be provided every six weeks for each objective in the IEP. The TOR provided progress reports for February 12, 2003, March 4, 2003, and April 24, 2003, but no request was made that the CCC convene to address whether daily progress reports would be included in the Student's current IEP.

CONCLUSIONS:

1. With regard to the Complaint under 511 IAC 7-27-7(a) that the LEA failed to implement the student's IEP as written, specifically, by failing to
 - a. Conduct daily observations of the student:

Finding of Fact #2 indicates that the IEP did not require daily observations for any objectives in the current IEP. Therefore, no violation of 511 IAC 7-27-7(a) is found for failing to make daily observations.
 - b. Work on communication skills, utilizing picture symbols:

Finding of Fact #3 indicates that the School has not provided documentation of use of a picture book in the form of a simple chart that traveled with the Student to each setting, as required in the current IEP, to show that picture symbols for improving communication skills were utilized in each setting. Therefore, a violation of 511 IAC 7-27-7(a) is found.
 - c. Provide instruction to the student in journalism class.

Finding of Fact #4 indicates the Student was not provided daily instruction in the journalism class, as required in the IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #5 indicates the Student's IEP did not require progress reports be based on daily observations of the Student's progress. Changes to the IEP must occur through the CCC process. Therefore no violation of 511 IAC 7-27-7(b)(1) is found for failing to provide progress reports based on daily observations of the student.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Elkhart Community Schools shall:

1. Provide a memorandum to all special education staff and building administrators regarding the requirements under 511 IAC 7-27-7(a) to implement the student's individualized education program as written. A copy of the memorandum and a list of recipients shall be forwarded to the Division of Exceptional Learners (the Division) no later than September 5, 2003.

2. The School shall convene a committee representing general education and special education staff to review and revise, as needed, policies and procedures:
 - to ensure that every student's IEP is properly implemented in both general education and special education settings, and by both general education and special education staff;
 - to develop a uniform procedure to chart both progress toward IEP objectives and participation of students eligible for special education services who are enrolled part time in general education classrooms, according to the requirements of their IEPs; and
 - to develop a uniform procedure to ensure that teachers on limited licenses are provided adequate supervision and supports.

A copy of both the previously developed policies and procedures and revised policies and procedures for each issue stated above shall be forwarded to the Division. In addition, an assurance statement signed by the superintendent, and special education and general education administrators and supervisors shall be forwarded to the Division no later than September 5, 2003, stating that all IEPs will be implemented by the School as written, in accordance with the requirements of 511 IAC 7-27-7(a).

3. The CCC shall reconvene to review the Student's IEP to determine if compensatory services are required due to the lapse in addressing IEP communication goals in the general education journalism class setting. A copy of the CCC summary that clearly summarizes the discussion and determinations of the CCC regarding compensatory services shall be forwarded to the Division by September 5, 2003.